

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

LUPERCAL LLC,

Plaintiff

v.

**BRANCH BANKING & TRUST
COMPANY,**

Defendants

Case No. 6:20-cv-00882

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lupercal LLC (“Lupercal” or “Plaintiff”) files this Complaint for patent infringement against Defendant Branch Banking & Trust Company (“BB&T”), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq.*

PARTIES

2. Lupercal is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3. Upon information and belief, Branch Banking & Trust Company, is a Financial Institution with its headquarters located at 200 West Second Street, Winston Salem, NC 27101. BB&T has regular and established places of business in this District, including multiple branch locations in this judicial district. BB&T may be served with process

through its registered agent: CT Corporation System, 1999 Bryan St., Ste 900, Dallas, Texas 75201.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

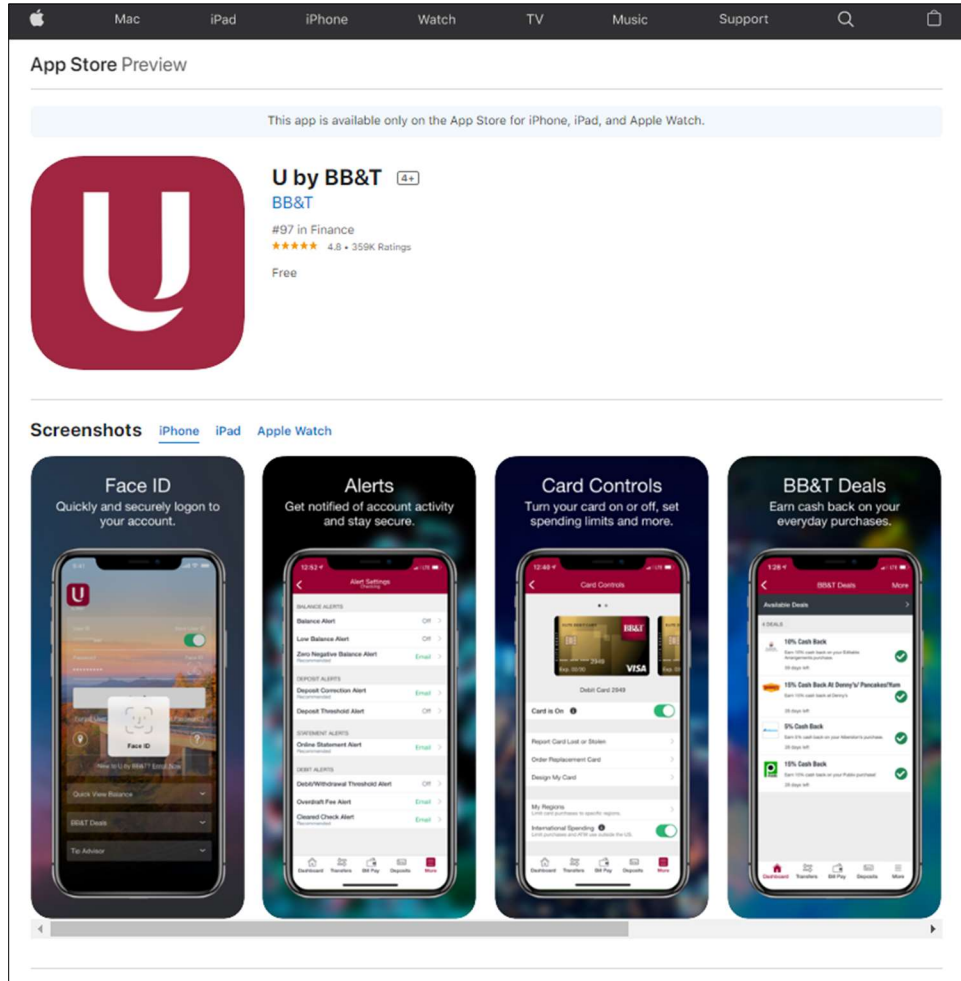
COUNT I **(Infringement of U.S. Patent No. 9,386,094)**

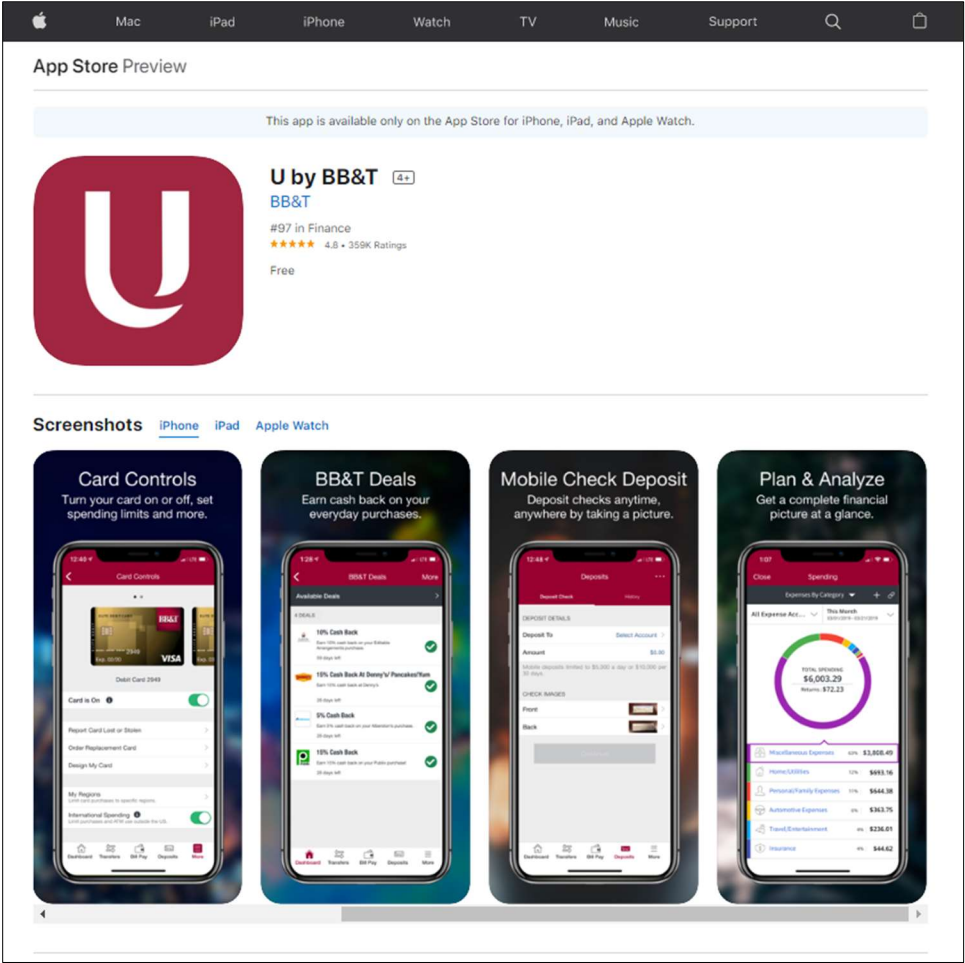
7. Lupercal incorporates paragraphs 1 through 6 as though fully set forth herein.

8. Plaintiff is the owner, by assignment, of U.S. Patent No. 9,386,094 (the “’094 Patent”), entitled SYSTEM AND METHOD FOR MEDIA SUBMISSION, which issued on July 5, 2016. A copy of the ’094 Patent is attached as Exhibit A.

9. The ’094 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10. Defendant provides the BB&T Mobile Banking App for use with Apple iOS devices and Android devices, which is available for download from Apple's iTunes App Store and Google Play Apps:





View account balances, make payments and transfers, plus go beyond everyday banking with features and tools that help you see the big picture and plan for what's next.

SECURITY & PROTECTION

Reset your user ID and password
Reset your security questions
BB&T uses advanced encryption technology
Your complete account numbers are never transmitted

PAYMENTS, TRANSFERS & DEPOSITS

Pay a bill
Transfer money between accounts
Pay a friend by email or text
Deposit a check

CUSTOMIZATION

Organize your dashboard by what's most important to you
Add a profile image
Personalize your debit card

MANAGE ACCOUNTS

Manage your BB&T accounts, account details and transactions
Link accounts, bills and investments from outside of BB&T
Temporarily disable your debit card and enable custom settings
Monitor your monthly budget and see what's left to spend
Search and view transactions by category
Easily access and manage your Marketconnect or BB&T Scott & Stringfellow accounts

CONTACT US

Call, email or schedule an appointment with your local banker
View customer service wait times and bypass the automation system
Find a local branch or ATM

OTHER TOOLS & FEATURES

View your account balance before you log on
Capture, organize and attach receipts
Calculate tips based on quality and type of service
Earn cash back on debit card purchases
Track mortgage rates and trends
View and redeem your credit card rewards

GETTING STARTED

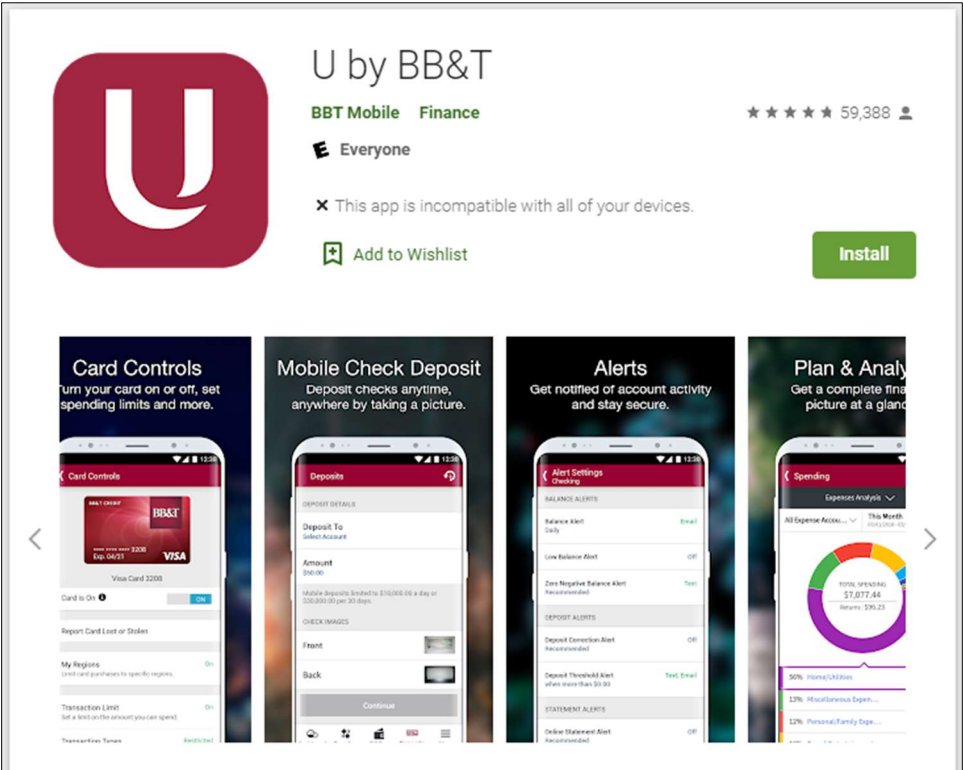
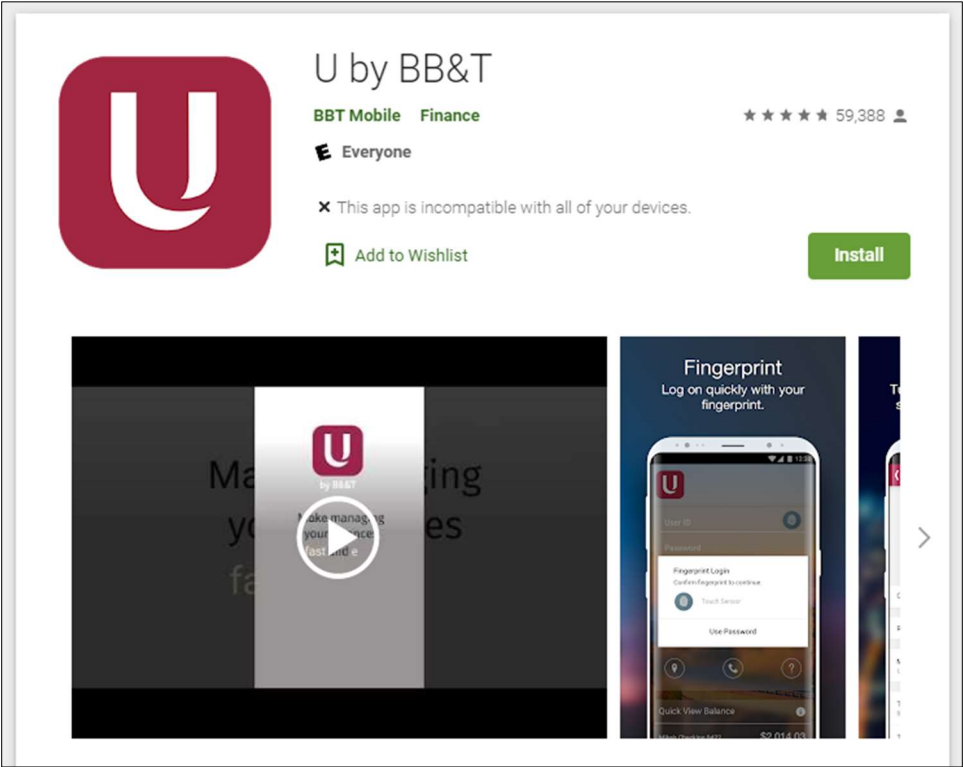
Open a BB&T account
Enroll in online banking to get a user ID and password

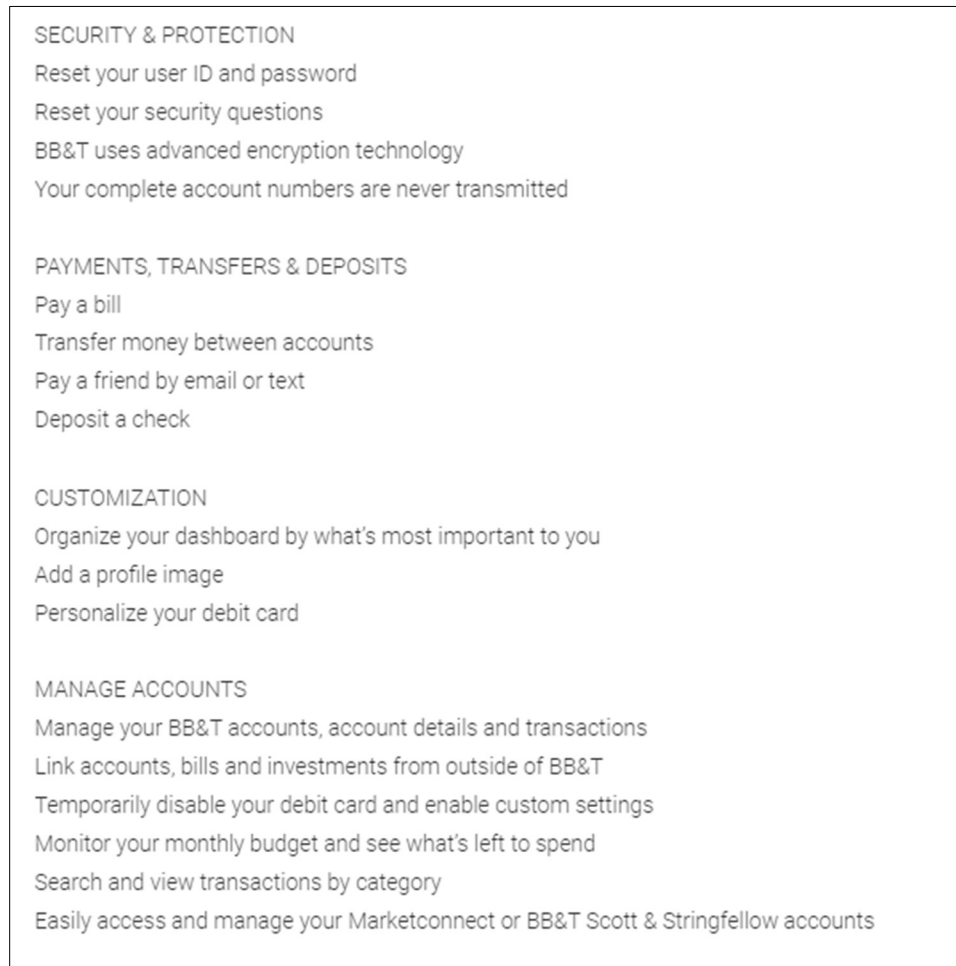
SUPPORT

Contact BB&T at 888-228-6654 (888-BBT-ONLINE)

BB&T does not charge fees to download or use the U app. Your mobile carrier may charge for text messaging and web access services. Check with your carrier for information about their fees.

<https://apps.apple.com/us/app/u-by-bb-t/id995112030>

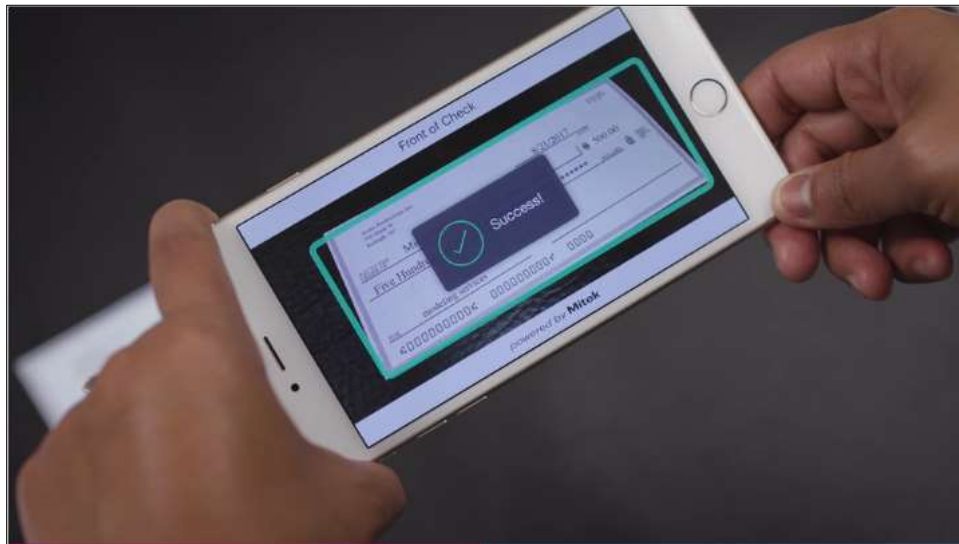
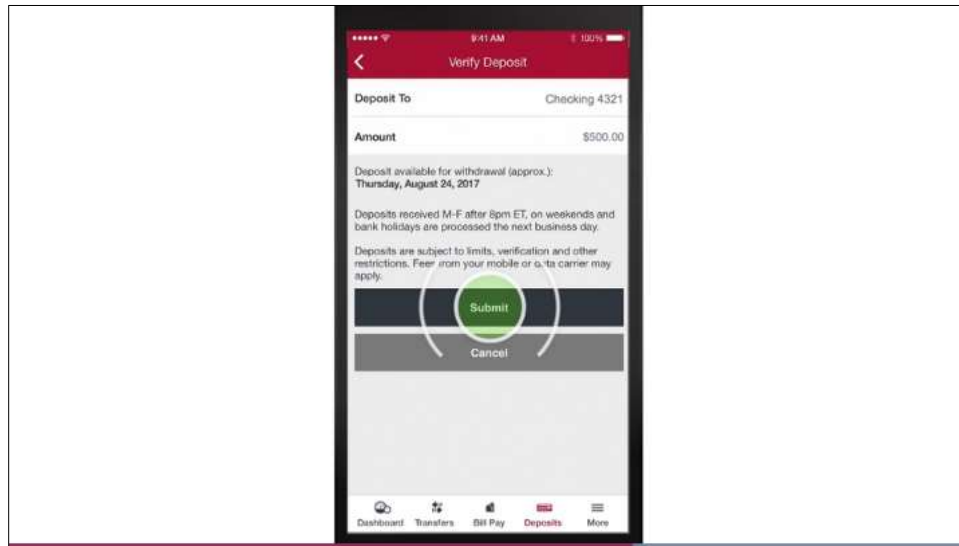




<https://play.google.com/store/apps/details?id=com.bbt.myfi>

11. The BB&T Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

Place your signed check on a solid dark background in good lighting. Once the check is within the on-screen corners, take a photo of the front of the check, then take a photo of the back of the check. Verify the deposit details and submit your deposit. And that's it.



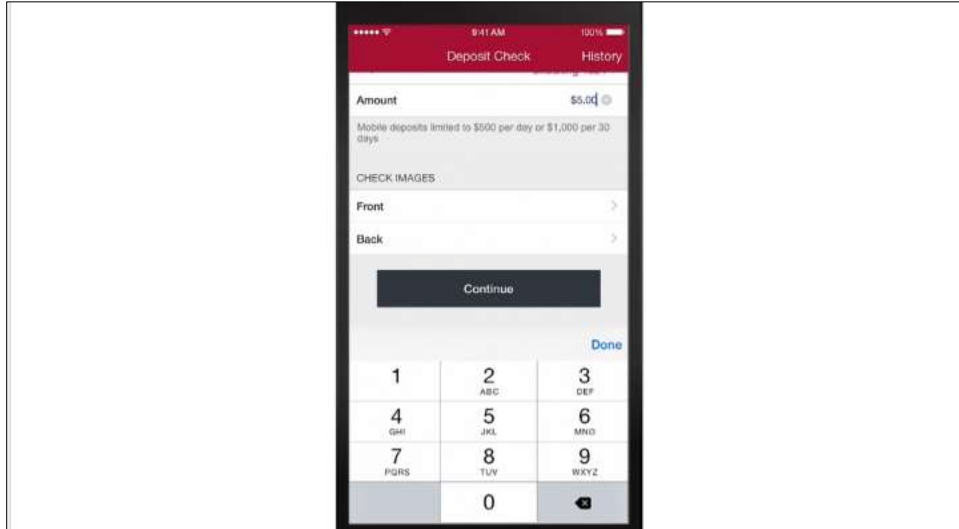


<https://www.bbt.com/education-center/video/u-bbt-mobile-check-deposit.page>

12. The photo of the front and back is manually taken by the user – as a result, the images produced may be blurry or otherwise undesirable, and the application enables the user to retake a given photo (front or back). A visual representation of the photos is displayed on the screen.

13. After selecting an account to deposit the check to, the user enters the amount of the check.

Let's help you deposit a check quickly and securely with U by BB&T. From your dashboard, select Deposits. Select the account you want to deposit your check into, then enter the amount of the check. Next, you'll take front and back photos of the check.



14. Upon being accepted by the user (via the BB&T Mobile App), the application pre-processes the front and back images to produce and front and back pre-processed images that is controlled by one or more preprocessing parameters received from a device (e.g., a server used to download the BB&T Mobile App) separate from the user device (user's smart phone) in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

15. Defendant controls the operation and use of the BB&T Mobile App and encourages its customers to use the BB&T Mobile App to deposit checks to the customer's accounts with Defendant. The Defendant's BB&T Mobile App is the Accused Instrumentality through which Defendant and its customers infringe the '094 Patent.

16. At least by developing, distributing, operating, promoting, and encouraging the use of the BB&T Mobile App, Defendant encourages its customers to use the BB&T Mobile App to practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

17. Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 42, of the '094 Patent by developing,

distributing, operating, promoting, and encouraging the use of the BB&T Mobile App in the United States without authority. Defendant has infringed and continues to infringe the '094 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271.

18. Defendant has been on notice of the '094 Patent at least as early as January 15, 2019 when it received a notice letter from Plaintiff, which included a claim chart comparing the '094 Patent claims to the BB&T Mobile App.

19. Claim 42 recites:

42. A computer implemented method performed by an image submission tool on a user device, comprising:

causing the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images;

causing the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images;

causing the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing parameters received from a device separate from

the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party;

causing the image submission tool to enable a user to submit the one or more pre-processed images; and

causing the image submission tool to transmit the one or more pre-processed images.

20. As indicated above, the BB&T Mobile App enables account holders to deposit checks electronically by taking a photo of the front and back of the check. After selecting an account to deposit the check to, the user enters the amount of the check.

21. More particularly, the BB&T Mobile App is a computer implemented method performed by an image submission tool on a user device.

22. In the process of using the BB&T Mobile App, the computer implemented method causes the image submission tool to generate a visual representation of one or more images, the visual representation enabling a user to determine whether the one or more images should be replaced with one or more replacement images.

23. In the process of using the BB&T Mobile App, the computer implemented method causes the image submission tool to enable a user to enter text information for association with the one or more images or the one or more replacement images.

24. In the process of using the BB&T Mobile App, the computer implemented method causes the image submission tool to pre-process the one or more images or the one or more replacement images to produce one or more pre-processed images, the pre-processing by the image submission tool controlled by one or more pre-processing

parameters received from a device separate from the user device in a conversion of the one or more images or the one or more replacement images as specified for use by a receiving party.

25. In the process of using the BB&T Mobile App, the computer implemented method causes the image submission tool to enable a user to submit the one or more pre-processed images.

26. In the process of using the BB&T Mobile App, the computer implemented method causes the image submission tool to transmit the one or more pre-processed images.

27. Lupercal has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Defendant:

1. declaring that the Defendant has infringed the '094 Patent;
2. awarding Plaintiff its damages suffered as a result of Defendant's infringement of the '094 Patent;
3. awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and
4. granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: September 29, 2020

Respectfully submitted,

/s/ Raymond W. Mort, III

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**ATTORNEYS FOR PLAINTIFF
LUPERCAL LLC**